

REMARKS

Claims 1-12 are pending in the present application.

The rejections of Claim 2 under 35 U.S.C. § 112, first paragraph (written description), is traversed.

The Examiner has rejected Claim 2 as lacking a sufficient written description in the specification. The basis for this rejection is that Claim 2 embraces a genus of DNA molecules that encode for the elected peptide of SEQ ID NO: 4 (paper number 11, page 3, lines 21-22), but the specification fails to explicitly disclose more than a single species of this genus (paper number 11, page 3, lines 14-19). Applicants disagree with this assertion and wish to remind the Examiner of the following passages taken from the MPEP.

MPEP § 2163.02:

An objective standard for determining compliance with the written description requirement is, "does the description clearly allow persons of ordinary skill in the art to recognize that he or she invented what is claimed." *In re Gostelli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989).

MPEP §2164.05(a):

The specification need not disclose what is well-known to those skilled in the art and preferably omits that which is well-known to those skilled and already available to the public... The state of the art existing at the filing date of the application is used to determine whether a particular disclosure is enabling as of the filing date.

Applicants submit that the skilled artisan would immediately envision the entire scope of Claim 2 based solely on the amino acid sequence of SEQ ID NO: 4 and the well-documented degeneracy of the genetic code (see **copy enclosed herewith**). In particular, Applicants note that with the aid of the genetic code a person possessing a junior high school

level of skill in the art can determine the codon corresponding to each amino acid in a polypeptide sequence. As such, when the artisan is placed in possession of the polypeptide sequence (e.g., SEQ ID NO:4), they would immediately envision every permissible polynucleotide sequence (i.e., a species) that would encode the same. As such, the specification taken with the knowledge generally available in the art provides an adequate description to allow the skilled artisan to recognize what has been invented and what is claimed is adequately described within the meaning of 35 U.S.C. § 112, first paragraph.

Accordingly, withdrawal of this ground of rejection is requested.

The objection to the specification and the claims as failing to comply with 37 C.F.R. §1.821(d) is obviated by the amendment set forth hereinabove.

Applications have amended the specification to ensure that all disclosed sequences bear the appropriate sequence identifiers. In addition, Applicants have now submitted a substitute Sequence Listing and a corresponding computer-readable Sequence Listing. The sequence information recorded in the corresponding computer-readable Sequence Listing is identical to the paper copy of the substitute Sequence Listing. Support for all of the sequences listed in the substitute Sequence Listing is found in the present application as originally filed. No new matter is believed to have been introduced by the submission of the substitute Sequence Listing and the corresponding computer-readable Sequence Listing.

Applicants request withdrawal of this ground of objection.

Finally, Applicants request that the Examiner acknowledge their claim to priority under 35 U.S.C. §120 to PCT/JP00/03455, filed on May 29, 2000, and their foreign priority claim under 35 U.S.C. §119 to JP 11-149589, filed May 28, 1999. Applicants note that the

Request for Priority (originally filed on November 28, 2001) was timely submitted along with a certified copy of JP 11-149589 on January 22, 2002.

Applicants submit that the present application is in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Stephen G. Baxter
Attorney of Record
Registration No. 32,884

Vincent K. Shier, Ph.D.
Registration No. 50,552

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)
SGB/VKS